

AMENDED IN ASSEMBLY MAY 16, 2007

AMENDED IN ASSEMBLY APRIL 24, 2007

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 980

Introduced by Assembly Member Charles Calderon

February 22, 2007

An act to add Section 711.2 to the Civil Code, relating to real estate transfer fees.

LEGISLATIVE COUNSEL'S DIGEST

AB 980, as amended, Charles Calderon. Real estate transfer fees: residential property.

Existing law permits various fees to be included in the price of a residential real estate transfer. Existing law requires specified disclosures to be made upon a transfer of residential real property and provides a form for this purpose.

This bill would require that when any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of real property contains a requirement that any transferor or transferee pay a real estate transfer fee and the requirement was in effect on or before December 31, 2007, a separate document be recorded in 14-point or larger type that contains specified notices related to that transfer fee. The bill would except from that requirement taxes and fees imposed by governmental entities, mechanics' liens, fees imposed by lenders, and homeowner association fees, among others. ~~The bill would also make a related statement of legislative findings.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares the following:~~
2 ~~(a) Transfer fees based on a percentage of the sales price of a~~
3 ~~home have been imposed on many home buyers without effective~~
4 ~~informed consent by, or notice to, the affected home buyers.~~
5 ~~(b) Fees totaling 1.75 percent of a home's sales price have been~~
6 ~~seen.~~
7 ~~(c) Generally, the minimum length of time for which these~~
8 ~~transfer fees have been imposed ranges from 20 to 25 years.~~
9 ~~However, many have been imposed in perpetuity.~~
10 ~~(d) The existing mechanisms for disclosing the existence of a~~
11 ~~transfer fee are limited at best. In addition, the requirement for~~
12 ~~payment of the fee can be masked by not having it apply to the~~
13 ~~first buyer but, instead, only to subsequent buyers. Consequently,~~
14 ~~many home buyers may be surprised to learn of the additional~~
15 ~~thousands of dollars that they will be required to pay upon the~~
16 ~~close of escrow.~~
17 ~~(e) Due to the significant amount of money involved, a home~~
18 ~~buyer may seek to mitigate the cost of the fee by seeking a lower~~
19 ~~home sale price that, if the home buyer successfully negotiates a~~
20 ~~lower price, will decrease the net home sale price realized by the~~
21 ~~home seller.~~
22 ~~(f) Therefore, when a transfer fee has been imposed, the~~
23 ~~requirement that payment of the fee will be required upon transfer~~
24 ~~of the real property should be clearly disclosed to prospective home~~
25 ~~buyers.~~
26 ~~SEC. 2.~~
27 ~~SECTION 1.~~ Section 711.2 is added to the Civil Code, to read:
28 711.2. (a) Except as provided in subdivision (c), when any
29 covenant, restriction, or condition contained in any deed, contract,
30 security instrument, or other instrument affecting the transfer or
31 sale of, or any interest in, real property contains a requirement that
32 any transferor or transferee pay a fee upon transfer of the real
33 property and the requirement was in effect on or before December
34 31, 2007, the recipient of the proceeds of the fee person or entity
35 that originally created the fee requirement, as a condition of

1 payment of the fee, shall record against the property a separate
2 document entitled "Payment of Transfer Fee Required," in 14-point
3 or larger type, that contains all of the following:

4 (1) Notice that payment of a transfer fee is required.

5 (2) The percentage of the home price constituting the cost of
6 the fee and actual dollar-cost examples for a home priced at two
7 hundred fifty thousand dollars (\$250,000), five hundred thousand
8 dollars (\$500,000), or seven hundred fifty thousand dollars
9 (\$750,000).

10 (3) The date the covenant, restriction, or condition expires ~~or,~~
11 ~~if the fee is required to be paid in perpetuity, that fact., if any.~~

12 (4) The name of the recipient of the fee funds.

13 (5) The purpose for which the fee funds will be expended.

14 ~~(6) Notice that the fee may potentially affect the future resale~~
15 ~~value of the property.~~

16 *(6) A statement that a prospective purchaser is advised to*
17 *consider the fee and the purposes and benefits for which it is used*
18 *in deciding whether to purchase the property.*

19 (b) The document required by subdivision (a) shall be recorded
20 on or before December 31, 2008, or within 30 days after
21 establishment of the obligation, whichever is later.

22 (c) Subdivision ~~(b)~~ (a) does not apply to any of the following:

23 (1) Fees or taxes imposed by a governmental entity.

24 (2) Mechanics' liens.

25 (3) Court ordered transfers, payments, or judgments.

26 (4) Property agreements in connection with a legal separation
27 or dissolution of marriage.

28 (5) Fees, charges, or payments in connection with the
29 administration of estates or trusts pursuant to Division 7
30 (commencing with Section 7000), Division 8 (commencing with
31 Section 13000), or Division 9 (commencing with Section 15000)
32 of the Probate Code.

33 (6) Fees, charges, or payments imposed by lenders or purchasers
34 of loans, as those entities are described in subdivision (c) of Section
35 10232 of the Business and Professions Code.

36 (7) Any assessment, charge, penalty, or fee authorized by the
37 Davis-Stirling Common Interest Development Act (Title 6
38 (commencing with Section 1350) of Part 4).

39 (8) *Any fee reflected in a document or documents recorded*
40 *against the property on or before December 31, 2007, if the*

- 1 *document or documents substantially comply with subdivision (a)*
- 2 *by putting a prospective transferee on notice, by means of a*
- 3 *preliminary title report, of the following:*
- 4 *(A) That a transfer fee is required.*
- 5 *(B) The amount or method of calculation of the fee.*
- 6 *(C) The date the obligation expires, if any.*
- 7 *(D) The entity or entities to which the fee will be paid.*
- 8 *(E) The general purposes for which the fee will be paid.*